

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2011 JAN 10 PM 3:12

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

BY mg
DEPUTY CLERK

ALICE H. ALLEN AND LAURENCE E.
ALLEN, d/b/a Al-lens Farm,
VINCE NEVILLE, GARRET SITTS
and RALPH SITTS, JONATHAN AND
CLAUDIA HAAR, and DONNA HALL on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

DAIRY FARMERS OF AMERICA, INC.,
DAIRY MARKETING SERVICES, LLC, and
DEAN FOODS COMPANY,

Defendants.

Docket No. 5:09-cv-00230-cr

Judge Christina Reiss

**PLAINTIFFS AND DEFENDANTS DAIRY FARMERS OF AMERICA, INC.'S
AND DAIRY MARKETING SERVICES LLC'S JOINT MOTION REGARDING
THE DISCOVERY SCHEDULE AND CLASS CERTIFICATION BRIEFING**

Plaintiffs and Defendants Dairy Farmers of America, Inc. ("DFA") and Dairy Marketing Services LLC ("DMS") have agreed upon and respectfully move this Court for an amendment of the First Amended Discovery Schedule Order, Dkt. No. 144, including a brief extension of the deadline for DFA and DMS to complete their document productions; a schedule for the submission of class certification briefing; an extension of the page limit for the same briefing; a brief extension of the deadline for the Close of Fact Witness Discovery; and a brief extension for Plaintiffs' reply to DFA's and DMS's responsive pleading to Plaintiffs' preliminary approval motion and an extension of the page limit for that reply.

First, despite DFA's and DMS's best efforts, including having people work every day over the holidays with the exception of Christmas day, DFA and DMS require, and requested

from Plaintiffs, a brief extension of the deadline to complete their document production. The current deadline is January 7, 2011, and the parties have agreed and jointly request, with the Court's permission, to extend that deadline by ten days, to and including January 17, 2011. DFA and DMS have been producing documents to Plaintiffs on a rolling basis as soon as the documents are ready for production, and will continue to do so.

Second, the parties have agreed to and jointly request that the Court enter the following briefing schedule in connection with Plaintiffs' motion for class certification: Plaintiffs' motion will be filed no later than February 1, 2011, with Defendants' opposition thereto due no later than March 18, 2011, and Plaintiffs' reply brief due no later than May 2, 2011.

Under the current First Amended Discovery Schedule Order, Dkt. No. 144, Plaintiffs' motion for class certification is due on January 15, 2011, and because that date is a Saturday, the Plaintiffs' deadline for filing their motion is currently effectively Tuesday, January 18, 2011 (Monday, January 17, is a federal holiday). In light of the extension of DFA's and DMS's document production deadline, Plaintiffs requested, and DFA and DMS agreed to, a two-week extension of that date, to February 1, 2010. In addition, the First Amended Discovery Schedule Order, Dkt. No. 144, does not contain a deadline for Defendants' opposition or Plaintiffs' reply; therefore, Plaintiffs and DFA and DMS have agreed and respectfully request that Defendants' opposition to the class certification motion shall be due no later than March 18, 2011, and Plaintiffs' reply shall be due no later than May 2, 2011. The parties believe this amount of time is necessary in order to permit the parties adequate time to analyze data and take the depositions of experts who have submitted reports in connection with class certification briefing.

Third, the parties have further agreed upon and respectfully request an extension to the page limits for the parties' briefs on class certification. Plaintiffs and DFA and DMS request that

Plaintiffs and Defendants be permitted 35 pages for their opening and opposition briefs, respectively, and that Plaintiffs be permitted to file a 25-page reply brief. The parties believe that this page-limit extension is necessary to permit them to adequately brief the issues relating to class certification.

Fourth, in light of the adjustments to the schedule agreed to and requested above, including the 10-day extension of DFA's and DMS's deadline to complete their document productions, the parties jointly request that the date for the Close of Fact Witness Discovery be extended by two weeks, from April 15, 2011, to April 29, 2011.

Finally, the parties have further agreed upon and respectfully request a 10 page extension of the page limit for the Plaintiffs' reply to DFA's and DMS's responsive pleading to Plaintiffs' motion for preliminary approval of the proposed settlement with Dean Foods Company.

[Document 160]. Plaintiffs and DFA and DMS request that Plaintiffs be permitted 20 pages for their reply. The Court ordered a 10 page extension to 25 pages for the DFA's and DMS's responsive pleading on December 28, 2010 [Document 163]. The parties also have agreed upon and respectfully request that Plaintiffs receive a 7 day extension of the time to file that reply to February 8, 2010. The Court previously ordered an extension of 7 days for DFA and DMS to file their responsive pleading to January 18, 2010. [Document 163].

Dated: January 7, 2011

Respectfully submitted,

/s/ Steven R. Kuney

STEVEN R. KUNEY
KEVIN HARDY
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington, D.C. 20005
(202) 434-5000
Fax: (202) 434-5029
skuney@wc.com
khardy@wc.com

W. TODD MILLER
BAKER & MILLER PLLC
2401 Pennsylvania Avenue, N.W.
Suite 300
Washington, D.C. 20037
(202) 663-7820
Fax: (202) 663-7849
tmiller@bakerandmiller.com

/s/ R. Jeffrey Behm

R. JEFFREY BEHM
IAN CARLETON
SHEEHY FURLONG & BEHM P.C.
30 Main Street
P.O. Box 66
Burlington, VT 05402-0066
Tel: (802) 864-9891
Fax: (802) 864-6815
jbehm@sheehyvt.com
icarleton@sheehyvt.com

*Counsel for Defendants Dairy Farmers of
America, Inc. and Dairy Marketing
Services, LLC*

/s/ Benjamin D. Brown

BENJAMIN D. BROWN
DANIEL A. SMALL
KIT A. PIERSON
BRENT W. JOHNSON
COHEN MILSTEIN SELLERS & TOLL
PLLC
1100 New York Avenue, N.W.
Suite 500, West Tower
Washington, DC 20005
Telephone: (202) 408-4600
Facsimile: (202) 408-4699
bbrown@cohenmilstein.com
dsmall@cohenmilstein.com
kpierson@cohenmilstein.com
bjohnson@cohenmilstein.com

ROBERT G. ABRAMS
GREGORY J. COMMINS, JR.
HOWREY LLP
1299 Pennsylvania Avenue, NW
Washington, DC 20004
Telephone: (202) 783-0800
Facsimile: (202) 383-6610
AbramsR@howrey.com
CommingsG@howrey.com

J. DOUGLAS RICHARDS
GEORGE F. FARAH
COHEN MILSTEIN SELLERS
& TOLL PLLC
88 Pine Street
Fourteenth Floor
New York, NY 10005
Telephone: (212) 838-7797
Facsimile: (212) 838-7745
drichards@cohenmilstein.com
gfarah@cohenmilstein.com

/s/ Andrew D. Manitsky

ANDREW D. MANITSKY, ESQ.
GRAVEL AND SHEA, A PROFESSIONAL
CORPORATION
76 St. Paul St., 7th Floor, P.O. Box 369
Burlington, VT 05402-0369
(802) 658-0220
amanitsky@gravelshea.com

*Counsel for Plaintiffs and the Proposed
Class*

SO ORDERED this 10th day of January 2011.


THE HONORABLE CHRISTINA REISS
UNITED STATES DISTRICT COURT JUDGE